

REMARKS

This Response is submitted in reply to the Office Action dated September 18, 2009, and in accordance with the telephone interviews courteously granted to Applicant's representative on December 8, 2009. Claims 1 to 25 are pending in this application. Claims 1, 16, and 21 have been amended pursuant to the interviews. No new matter is introduced by these amendments. Please charge Deposit Account No. 02-1818 to cover any fees due in connection with this Response.

The Office Action rejected Claims 1 to 5, 11 to 14, 16, and 21 to 24 under 35 U.S.C. §102(e) as being obvious over U.S. Patent Publication No. 2003/0236116 to Marks ("Marks"). Applicant respectfully disagrees with these rejections for the reasons discussed below. Nevertheless, certain of the claims have been amended pursuant to the interviews and for clarity. Support for such amendments may be found at least on page 23, lines 9 to 16; page 24, lines 23 to 26; Fig. 3 (e.g., element 82); Fig. 5; and Figs. 7 to 10 of the specification, as originally filed.

As discussed during the first of two telephone interviews which took place on December 8, 2009, Marks discloses a gaming device which provides a percentage of one or more progressive awards to a player based upon any wager level. A progressive award value increases at a rate of X% of the total value of each bet placed. Upon a triggering event, a player is awarded an amount or percentage of the progressive award according to a predetermined formula. This amount (the "Percentage Progressive Value") is calculated according to the following formula: Percentage Progressive Value = $U \cdot T + I \cdot \text{int}(U/L)$, where T represents the total bet or wager placed.

In the gaming device of amended independent Claim 1, the plurality of instructions, when executed by the at least one processor, cause the at least one processor to operate with the at least one display device and the at least one input device to: (c) if the player selects at least a threshold amount for the first component of the wager for the play of the base game and the displayed outcome for the play of the base game includes a designated outcome, trigger a bonus game associated with a meter displayed in the bonus game, the meter being changeable each time the bonus game is triggered, wherein: (i) each time the bonus game triggered, the meter is at a displayed predetermined level, and (ii) each time a change of the meter occurs during

the bonus game, the change is of an amount which is determined based on the selected different second component of the wager for the play of the base game and not based on the total wager value of the wager placed and any outcome which occurs in the play of the base game; and (d) when the meter reaches a designated level, provide an award generation event associated with the meter to the player.

As discussed during the first December 8, 2009 interview, the Office Action equates the progressive award meter of Marks to the meter of independent Claim 1. However, in Marks, the progressive award value (and, thus, the amount displayed by the progressive award meter) increases based on the wager placed. In addition, as portions of the progressive award are awarded to one or more players according to the predetermined formula, the progressive award meter decreases. Thus, each time the progressive award meter changes in Marks, the change is based, at least in part, on the total wager placed.

The Office Action reasons that, when the progressive award is triggered, regardless of the total wager value of the wager placed by the player, the gaming device of Marks utilizes the predetermined formula to determine the amount or portion the progressive award to provide to the player. In other words, regardless of how large or how small the player's wager is, the gaming device uses same predetermined formula to determine what portion of the progressive award to provide to the player.

Applicant agrees that, regardless of the size of the total wager value, the Marks system employs the same predetermined formula for determining the amount of the progressive award to provide to the player. However, calculating or determining this award amount using the formula factors in the total wager value of the wager placed on the play of the game. As described above, the award amount (or the "Percentage Progressive Value") is equal to $U * T + I * \text{int}(U/L)$, where T represents the total bet or wager placed. Thus, in Marks, the award amount (and, therefore, the amount by which the progressive award meter changes) is determined based on the total wager placed.

Accordingly, Marks does not anticipate a meter displayed in the bonus game, wherein each time a change of the meter occurs during the bonus game, the change is of an amount which is determined based on the selected different second component of

the wager for the play of the base game and not on the total wager value of the wager placed and any outcome which occurs in the play of the base game.

For at least the reasons discussed above, Applicant respectfully submits that amended independent Claim 1 and the claims depending therefrom are each patentably distinguished over Marks.

For reasons similar to those given above, Applicant respectfully submits that amended independent Claims 16 and 21 and the claims depending therefrom are each patentably distinguished over Marks.

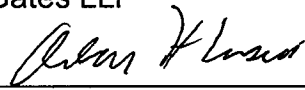
The Office Action rejected Claims 7 and 8 under 35 U.S.C. § 103(a) as being obvious over Marks in view of U.S. Patent No. 5,823,873 to Moody. Applicant respectfully submits that the patentability of amended independent Claim 1 renders this rejection moot.

An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art such action is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

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